

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

STATE OF MISSOURI; MICHAEL L. PARSON,
Governor of the State of Missouri, in his official
capacity; and ANDREW BAILEY, Attorney General
of the State of Missouri, in his official capacity,

Defendants-Appellants.

No. 23-1457

**UNOPPOSED MOTION FOR 21-DAY FURTHER EXTENSION
OF TIME IN WHICH TO FILE RESPONSE BRIEF**

Pursuant to Federal Rules of Appellate Procedure 26(b) and 27, the United States respectfully moves for a 21-day further extension of time, to and including August 2, 2023, in which to file its response brief on appeal. Defendants-appellants State of Missouri *et al.* do not oppose this request.

1. The United States brought this lawsuit in the Western District of Missouri to enjoin the State of Missouri and its agencies and officials from implementation of Missouri H.B. 85, also known as the Second Amendment Preservation Act. The United States sought summary judgment in its favor, arguing that H.B. 85 is invalid under the Supremacy Clause of the U.S. Constitution. The district court granted the government's motion, concluding that H.B. 85 is invalid in its entirety and

enjoining “any and all implementation and enforcement” of the statute. The court entered an administrative stay of its decision pending this Court’s consideration of an appellate stay motion. Defendants-appellants then moved in this Court for a stay pending appeal, which the United States opposed on March 17, 2023.

2. Appellants’ opening brief was originally due by May 1, 2023. After receiving one extension from this Court, appellants’ opening brief was accepted for filing on May 11, 2023.

3. The United States’ response brief was originally due by June 12, 2023. On May 26, 2023, this Court extended that deadline until July 12, 2023.

4. The requested 21-day further extension is necessary to ensure adequate time for counsel to consult within the federal government and to prepare and file the United States’ response brief.

The attorney with primary responsibility for this matter is Jeffrey E. Sandberg of the U.S. Department of Justice, Civil Division, Appellate Staff. Mr. Sandberg has remained occupied with other appellate litigation, including, *inter alia*, *USA Sales, Inc. v. Office of United States Trustee*, No. 21-55643 (9th Cir.) (in-person oral argument held June 7, 2023); *In re Teter*, No. 22-3778 (6th Cir.) (in-person oral argument held June 13, 2023); *Office of the United States Trustee v. John Q. Hammons Fall 2006, LLC*, No. 22-1238 (S. Ct.) (petition for writ of certiorari filed June 23, 2023); and *American Reliable Insurance Co. et al. v. United States*, Nos. 22-

6014 & 23-5439 (6th Cir.) (response brief on cross appeals due July 24, 2023, as extended). In addition, Mr. Sandberg is away from the office on previously scheduled annual leave from June 23-30, 2023.

The attorney with principal supervisory responsibility for this appeal is Abby Wright of the U.S. Department of Justice, Civil Division, Appellate Staff. Ms. Wright also has supervisory responsibility for numerous other matters, including *Mock v. Garland*, No. 23-10319 (5th Cir.) (expedited appeal) (response brief filed June 15, 2023, and oral argument scheduled for June 29, 2023); *Salas v. United States*, No. 22-16936 (9th Cir.) (response brief filed June 26, 2023); *Olsen v. Becerra*, No. 23-35052 (9th Cir.) (response brief due June 29, 2023, as extended); *Kaweah Delta Health Care District v. HHS*, No. 23-55209 (9th Cir.) (opening brief on cross-appeal due July 3, 2023); *BNSF Railway Co. v. Federal Railroad Administration*, No. 22-60217 (5th Cir.) (supplemental briefs due July 7, 2023 and July 14, 2023); and *Deanda v. Becerra*, No. 23-10159 (5th Cir.) (reply brief due July 14, 2023). In addition, Ms. Wright will be taking previously scheduled annual leave from July 11-18 and July 27-30, 2023.

Michael Raab, also of the Appellate Staff, is also supervising this appeal. Among other matters, Mr. Raab also has supervisory responsibility for *Leopold v. Manger*, No. 22-5304 (D.C. Cir.) (response brief due July 11, 2023, as extended); *Lake Region Healthcare Corp. v. Becerra*, No. 22-5318 (D.C. Cir.) (response brief due

July 13, 2023, as extended); *State of Texas v. Becerra*, No. 23-10246 (5th Cir.) (reply brief due July 21, 2023); and *Borja v. Nago*, No. 22-16742 (9th Cir.) (response brief due July 31, 2023).

5. We have consulted with counsel for defendants-appellants, who have authorized us to state that they do not oppose the requested extension.

CONCLUSION

For the foregoing reasons, the United States' unopposed motion for a 21-day further extension of time, to and including August 2, 2023, in which to file its response brief should be granted.

Respectfully submitted,

MICHAEL S. RAAB
ABBY C. WRIGHT

/s/ Jeffrey E. Sandberg
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June 28, 2023

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because it contains 710 words, according to the count of Microsoft Word. The motion complies with Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Calisto MT, a proportionally spaced typeface.

/s/ Jeffrey E. Sandberg
Jeffrey E. Sandberg
Counsel for Plaintiff-Appellee
United States of America

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2023, I electronically filed the foregoing motion with the Clerk of Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system. The participants in this case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Jeffrey E. Sandberg
Jeffrey E. Sandberg
Counsel for Plaintiff-Appellee
United States of America